

SECTION '2' – Applications meriting special consideration

Application No : 18/00961/FULL1

Ward:
Kelsey And Eden Park

Address : 113 Croydon Road, Beckenham BR3 3RA

OS Grid Ref: E: 536250 N: 168463

Applicant : Mr ASLAN GOKHAN

Objections : YES

Description of Development:

Retrospective application for the installation of a replacement ventilation fan.

Key designations:

Biggin Hill Safeguarding Area
London City Airport Safeguarding
Smoke Control SCA 15

Proposal

The application seeks retrospective planning permission for the installation of a replacement ventilation fan. The ventilation fan has already been installed and as such the application is for retrospective planning permission. The application follows on from the previously refused applications under reference: 17/02461/FULL1 & 17/05066/FULL1. Further specification details have been provided within the current application in order to address previous objections.

Location and Key Constraints

The application site comprises a single storey building used as a hot food takeaway located within a parade on Croydon Road, Beckenham close to the Elmer's End Green roundabout.

The site lies in the middle of three single storey buildings with the units either side being a café (no. 115) and a building consultant (no. 111). Adjoined to no. 111 is a terrace of two storey buildings and next to no. 115 lies an access road which leads to the rear of the properties on Croydon Road, garages and a public car park. Beyond this access road is another parade of two storey buildings. The ground floors of the neighbouring properties comprise a variety of commercial units with the upper floors being mainly residential.

Comments from Local Residents and Groups

Nearby owners/occupiers were notified of the application and representations were received, which can be summarised as follows:

Objections

- o The noise has reduced but the vent is still creating vast amounts of smoke every day from approx. 4-5pm every night of the week until 12 and from 3-4pm Saturdays and Sunday.
- o Fumes and Odours. Neighbours cannot open windows or use the balcony.
- o Object to the length of time this has taken to resolve.
- o The duct is approx. 20' long and unsightly

Comments from Consultees

Environmental Health Pollution Officer: Due to the restricted stack, proximity of receptors and cooking type, the unit requires a very high level of odour control. I have reviewed the documents associated with the application on Uniform and whilst there appears to be no proposed drawings, recommendations have been made by Bilimway Training and Consultancy Ltd.

I assume that aside from adding mitigations to the system the unit will remain largely the same in configuration, though I note that drawings of the existing system are old as the outlet no longer points towards the alley. Recommendations made in the report are considered suitable, if we could condition the application to ensure they are implemented in full and maintained I would not raise objections. I would suggest the following:

All recommendations in the Report on the Kitchen Extract Ventilation System (Bilimway Training and Consultancy Ltd; 12th January 2018) shall be implemented and maintained in full, including but not limited to a replacement canopy of suitable size, installation of Electrostatic precipitation, supported by a suitable odour neutraliser followed by carbon filtration, capable of handling a high level of grease and odour content. The mitigation measures shall be implemented in full and shall remain in place permanently thereafter, as long as the use continues. Validation certificates demonstrating compliance are to be submitted to the LPA.

The report states that on consideration of the fan and recommended silencers 'it is not thought that the noise from either fan or discharge could cause a nuisance'. From a planning perspective nuisance is a higher standard than amenity. Based on the data supplied for the fan mounted silencer from Acoustica I am satisfied that the proposed noise abatement measures are likely to be satisfactory, though regard should be had to existing background levels to safeguard amenity and to prevent creeping background levels, I would therefore recommend the following condition:

At any time the combined plant noise rating level shall not exceed the measured typical background L90 level at any noise sensitive location. For the purposes of this condition the rating and background levels shall be calculated fully in accordance with the methodology BS4142:2014. Furthermore, at any time the measured or calculated absolute plant noise level shall not exceed 10dB below the typical background noise level (LA90 15 minute) in this location. All constituent parts of the new plant shall be maintained and replaced in whole or in part as often is required to ensure compliance with the noise levels.

Mechanical plant shall be mounted in a way which will minimise transmission of structure borne sound or vibration to any other part of the building in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Following installation, but before the new plant comes into operation, measurements of noise from the new plant must be taken and a report demonstrating that the plant as installed meets the design requirements shall be submitted to and approved in writing by the Local Planning Authority.

Policy Context

Section 70(2) of the Town and Country Planning Act 1990 (as amended) sets out that in considering and determining applications for planning permission the local planning authority must have regard to:-

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

Section 38 (6) of the Planning and Compulsory Purchase Act (2004) makes it clear that any determination under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise.

According to paragraph 216 of the NPPF decision takers can also give weight to relevant policies in emerging plans according to:

- o The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- o The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- o The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The Council is preparing a Local Plan. The submission of the Draft Local Plan was subject to an Examination In Public which commenced on 4th December 2017 and the Inspector's report is awaited. These documents are a material consideration. The weight attached to the draft policies increases as the Local Plan process advances.

The development plan for Bromley comprises the Bromley UDP (July 2006), the London Plan (March 2016) and the Emerging Local Plan (2016). The NPPF does not change the legal status of the development plan.

London Plan Policies

7.14 Improving air quality

7.15 Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes.

Unitary Development Plan

BE1 Design of New Development

ER9 Ventilation

Emerging Local Plan

Draft Policy 37 General Design of Development

Draft Policy 121 Ventilation and Odour Control

Supplementary Planning Guidance

SPG1 General Design Guidance

Planning History

The relevant planning history relating to the application site is summarised as follows:

Under ref: 97/02863/FUL, planning permission was granted for the change of use of ground floor from retail shop (Class A1) to hot food takeaway (Class A3). This grant of permission included a condition on the decision notice requiring;

"The ventilation system shown on the approved drawings and supporting documentation shall be implemented to the satisfaction of the Local Planning Authority before the Class A3 Use commences and it shall thereafter be permanently maintained in an efficient working manner to the Authority's satisfaction".

17/02461/FULL1-Installation of replacement ventilation fan RETROSPECTIVE APPLICATION- Application Refused- Date issued-03.08.2017

Refused for the following reason:

1. On the basis of the information submitted, the ventilation system would not adequately protect the occupiers of nearby properties from cooking odours or noise, and would therefore be contrary to Policy ER9 of the Unitary Development Plan, and Policies 7.14 and 7.15 of the London Plan.

17/05066/FULL1 - Installation of replacement ventilation fan [MODIFIED] (RETROSPECTIVE). Refused.

1. On the basis of the information submitted, the ventilation system would not adequately protect the occupiers of nearby properties from cooking odours or noise, and would therefore be contrary to Policy ER9 of the Unitary Development Plan, Emerging Draft Policy 121 and Policies 7.14 and 7.15 of the London Plan.

There is currently an outstanding Enforcement Notice under ref: 16/00501/BRCOND relating to the unauthorised ventilation which pending, depending on the outcome of this application.

Considerations

The main issues relating to the application are the effect that it would have on the character of the area, the impact that it would have on the amenities of the occupants of surrounding residential properties. Consideration should also be given to the previous reasons for refusal.

Paragraph 14.30 of Policy ER9 of the UDP states that; "Food and drink premises have the potential to create a nuisance through smell and noise. In order to reduce the level of noise and smell produced to potentially acceptable levels, the Council expects to see the installation of effective ventilation systems within such premises". This Policy is supported by Policies 7.14 and 7.15 of the London Plan.

Policy BE1 of the UDP seeks to protect existing residential occupiers from inappropriate development. Issues to consider are the impact of a development proposal upon neighbouring properties by way of overshadowing, loss of light, overbearing impact, overlooking, loss of privacy and general noise and disturbance.

The original grant of planning permission in 1997 for the change of use to hot food takeaway incorporated the provision of a ventilation system attached to the permission. The ventilation system has now been replaced and retrospectively applied for.

As with the previous application in terms of the visual impact of the system, the ventilation unit is located on the roof of the premises. It is not visible from Croydon Road; however, it is visible from the rear of the premises and from the flank windows of the neighbouring flats. Having said this, it does replace a previous system and given the permitted use of the site as a hot food takeaway, an adequate ventilation system would be required and the location is considered reasonable. Therefore, on balance, the visual impact of the fan is not considered so significantly harmful as to warrant a refusal on this basis.

In relation to neighbouring amenity there are residential properties located above neighbouring building and these include windows directly face the application property and ventilation system. Objections were raised previously which related to the adequacy of the unit controlling odour and fumes as well as noise. On the basis of the information at the

time, the ventilation was not considered to adequately protect occupiers from cooking odours or noise.

The current proposal is also submitted as a retrospective application; however there are still objections from neighbouring residents regarding fumes, odours and noise. The Council's EHO has been to investigate the system and has established whilst the carbon filters are in place, the Electrostatic Precipitator and Odour Neutralisers are not. The applicant has supplied specification details of the proposed mitigation measures and the Council's EHO considers that the recommendations made within the reports regarding noise, odour and fumes are now suitable. It is noted that the submitted plans show the 'existing arrangement' however the vent is shown as discharging towards the side access, rather than to the rear of the property as currently built. As works are still required to mitigate the impacts of the ventilation system full layout plans could be secured by way of a condition, which should be submitted within 1 month from the date of this permission. Furthermore, conditions recommended by the EHO should be applied to the planning consent to ensure the protection of neighbouring residential amenities, particularly in light of the continued use of the site.

Conclusion

Having regard to the above it is considered that the location of the ducting at the rear would not result in harm to the character and appearance of the area. The Council's EHO is also now satisfied with the proposed mitigation measures outlined within the supporting documents and subject to the inclusion and implementation of the conditions recommended above, the proposal would on balance have an acceptable impact on neighbouring residential amenities.

RECOMMENDATION: PERMISSION

Subject to the following conditions:

- 1 Detailed plans of the equipment comprising the ventilation system hereby approved, including mechanical plant, which shall be mounted in a way which will minimise transmission of structure borne sound or vibration to any other part of the building shall be submitted to the Local Planning Authority for approval within 1 month of the date of this permission. This equipment should be fully in accordance with Conditions 2 & 3 of this planning permission and all equipment shall be installed and maintained in accordance with the approved details.**

Reason: In order to comply with Policies S9 and BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the area.

- 2 All recommendations in the Report on the Kitchen Extract Ventilation System (Bilimway Training and Consultancy Ltd; 12th January 2018) shall be implemented and maintained in full, including but not limited to a replacement canopy of suitable size, installation of Electrostatic precipitation, supported by a suitable odour neutraliser followed by carbon filtration, capable of handling a high level of grease and odour content. The mitigation measures shall be implemented in full and shall remain in place permanently thereafter, as long as the use continues. Validation certificates demonstrating compliance are to be submitted to the LPA within 1 month of installation.**

Reason: In order to comply with Policies S9 and BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the area.

- 3 At any time the combined plant noise rating level shall not exceed the measured typical background L90 level at any noise sensitive location. For the purposes of this condition the rating and background levels shall be calculated fully in accordance with the methodology BS4142:2014. Furthermore, at any time the measured or calculated absolute plant noise level shall not exceed 10dB below the typical background noise level (LA90 15 minute) in this location. All constituent parts of the new plant shall be maintained and replaced in whole or in part as often is required to ensure compliance with the noise levels.**

Reason: In order to comply with Policies S9 and BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the area.

- 4 Following installation, but before the new plant comes into operation, measurements of noise from the new plant must be taken and a report demonstrating that the plant as installed meets the design requirements shall be submitted to and approved in writing by the Local Planning Authority.**

Reason: In order to comply with Policies S9 and BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the area.

- 5 The equipment approved under Conditions 1, 2, & 3 shall be fully installed within 1 month from the date of that approval.**

Reason: In order to comply with Policies S9 and BE1 of the Unitary Development Plan and in the interest of the visual and residential amenities of the area.